**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

–

**WRIT PETITION NO : 23781 of 2004**

Between:

Rabi Kishore Patanaik, S/o Sadanda Patnaik, Hindu,

aged about 40 years, R/o.Old Christian Street,
Berhempur, Ganjam District, Orissa.

**..... PETITIONER**

AND

1 Deputy Transport Commissioner,

Srikakulam, Srikakulam District.
2 Motor Vehicle Inspector, Palasa,

Srikakulam District.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ order, direction more particularly writ in the nature of Mandamus under Article 226 of constitution of India, declaring the action of the 2nd respondent having known the fact, unless cross Koligam village road to reaches either Ichapuram to Bhimpur, seizing the petitioner's vehicle and by issuing proceeding vide check report No. 0966173 dated 14-12-2004 and alleging the bus is not plying according to permit is illegal, improper and arbitrary, consequently to set aside the proceedings of the 2nd respondent, declared as null and void, and pass such other order or orders.

**Counsel for the Petitioner:SMT.A.PADMA**

**Counsel for the Respondents : GP FOR TRANSPORT**

**The Court made the following :**

**O R D E R:**

This Writ Petition is filed for declaring the action of the second respondent having known the fact, unless the vehicle crosses Koligam village road to reach either Ichapuram or Bhimpur, seizing the petitioner's vehicle by issuing proceedings vide check report No.0966173, dated 14-12-2004 and alleging that the bus is not plying according to permit, as illegal and arbitrary and consequently to set aside the proceedings of the second respondent.

The grievance of the petitioner is that his vehicle was seized vide check report No.0966173, dated 14-12-2004, for violation of certain provisions of the Motor Vehicles Act.

The learned counsel for the petitioner contended that the petitioner has paid the tax and obtained necessary permission from the Government of Orissa and therefore, she prays to release the Vehicle.

On the other hand, the learned Government Pleader for respondent contended that since the petitioner has to pay the tax to the Government of Andhra Pradesh as the vehicle was plying on the roads of the State of Andhra Pradesh and, therefore, there is no need to grant any interim custody of the vehicle. Hence, he prays to dismiss the Writ Petition.

The facts of the case are not in dispute. The vehicle of the petitioner was seized for violation of certain conditions. The petitioner has also produced the copies of the permit and payment of tax for plying the vehicle for a certain route. In that view of the matter, whether the petitioner has violated any of the provisions of the Motor Vehicles Act by plying the vehicle on the roads of State of Andhra Pradesh has to be decided by the competent Authority. Therefore, till

then, it is not desirable to keep the vehicle idle exposing to sun and rain causing damage to the vehicle. Therefore, in the interest of both the parties, it is ordered that the first respondent shall release the vehicle bearing No.OR07 J 5444 (AL 1995) to the petitioner on deposit of Rs.15,000/- (Rupees fifteen thousand only) with the following conditions:

(a) that the petitioner shall not alienate or transfer the vehicle;

(b) that the petitioner shall produce the vehicle as and when required by the competent Authority; and

(c) that the petitioner shall also co-operate with the enquiry to be conducted by the competent Authority.

With the above observation, the Writ Petition is disposed of.

_____

22-12-2004

Prv

To

1 The Deputy Transport Commissioner,

Srikakulam, Srikakulam District.

2 The Motor Vehicle Inspector, Palasa,

Srikakulam District.

3 Two CCs to G.P. for Transport, High Court Buildings,

Hyderabad (OUT).

4 Two CD copies.